

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MIGUEL GUTIERREZ-PIZANO,

8:08CV494

Petitioner,

v.

**MEMORANDUM
AND ORDER**

FRED BRITTEN,

Respondent.

This matter is before the court on Respondent's Motion to Strike Reply Brief. (Filing No. [23](#).) In his Motion, Respondent requests that the court strike Petitioner's Reply Brief, filed on April 20, 2009, because Petitioner was not previously given leave to file it. (Filing No. [22](#).) For good cause shown, the court will consider Petitioner's Reply Brief in resolving Respondent's pending Motion for Summary Judgment. However, the court will permit Respondent the opportunity to respond to the arguments regarding equitable tolling contained in Petitioner's Reply Brief.

IT IS THEREFORE ORDERED that:

1. Respondent's Motion to Strike Reply Brief (filing no. [23](#)) is denied. The court will consider Petitioner's Reply (filing no. [22](#)) in resolving Respondent's pending Motion for Summary Judgment.
2. No later than July 6, 2009, Respondent shall file a response to the arguments regarding equitable tolling contained in Petitioner's Reply Brief. In the event that Respondent does not file a response by that date, the court will resolve the Motion for Summary Judgment without further notice.
3. The Clerk of the court is directed to set a pro se case management

deadline in this matter with the following text: July 6, 2009: Respondent's argument to equitable tolling reply brief due.

June 12, 2009.

BY THE COURT:

s/ Joseph F. Bataillon
Chief United States District Judge